

**\*E-FILED - 6/29/10\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GEORGE FLORES,

Plaintiff,

v.

WARDEN EVANS, et al.,

Defendants.

No. C 08-3297 RMW (PR)

ORDER DENYING  
PLAINTIFF'S MOTION FOR  
TEMPORARY RESTRAINING  
ORDER / PRELIMINARY  
INJUNCTION

(Docket No. 54)

Plaintiff, an inmate at Kern Valley State Prison, filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983. On October 3, 2008, plaintiff filed a first amended complaint. After reviewing the amended complaint, the court found that it stated a cognizable Eighth Amendment claim against prison officials for cruel and unusual punishment. On August 7, 2009, the court granted defendants' motion to dismiss and dismissed the complaint for failure to exhaust. Plaintiff did not file an appeal. On October 16, 2009, plaintiff filed a post-judgment motion for temporary restraining order and/or preliminary injunction. On November 10, 2009, the court denied plaintiff's motion because the case was closed and plaintiff failed to establish that he was likely to succeed on the merits.

In plaintiff's present motion, plaintiff raises many of the same allegations as in his October 16, 2009 motion. For the reasons stated in the court's November 10, 2009 order,

1 plaintiff's motion is DENIED. Plaintiff is advised that he is not prevented from filing a new  
2 civil rights complaint if he can in good faith allege (1) that a right secured by the Constitution or  
3 laws of the United States was violated, and (2) that the alleged deprivation was committed by a  
4 person acting under the color of state law.

5 IT IS SO ORDERED.

6 DATED: 6/29/10

  
RONALD M. WHYTE  
United States District Judge